

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

BEARBOX LLC and AUSTIN STORMS,

Plaintiffs,

v.

LANCIUM LLC, MICHAEL T.
MCNAMARA, and RAYMOND E. CLINE,
JR.

Defendants.

)
)
)
)
)
)
)
)
)
)
)

C.A. No. 21-534-GBW-CJB

**EMERGENCY MOTION TO STRIKE THE SUPPLEMENTAL
EXPERT REPORT OF PLAINTIFFS' EXPERT, DR. McCLELLAN,
AND MOTION TO EXPEDITE BRIEFING ON THE SAME**

Lancium moves to strike the supplemental expert report of Plaintiffs' expert, Dr. McClellan, served in the evening on Friday, November 11, 2022. Expert discovery closed long ago, and the parties are on the eve of trial. Plaintiffs' last-minute attempt to buttress their inventorship claims should be stricken under the applicable *Pennypack* factors. In support, a three-page letter brief accompanies this motion.

Lancium requests expedited letter briefing such that this motion will be fully briefed prior to the Final Pretrial Conference set for November 22, 2022. To accomplish this, Lancium proposes that Plaintiffs' Opposition be due on **Friday, November 18** and that Defendants' Reply be due on **Monday, November 21**, utilizing the letter briefing protocol for motions to strike in Your Honor's patent form scheduling order available at

www.ded.uscourts.gov/sites/ded/files/chambers/Rule%2016%20Scheduling%20Order%20-%20Patent%20%28Non-ANDA%29_0.pdf.

Dated: November 15, 2022

BARNES & THORNBURG LLP

/s/ Chad S.C. Stover

Chad S.C. Stover (No. 4919)
222 Delaware Ave., Suite 1200
Wilmington, Delaware 19801-1050
Telephone: (302) 300-3474
E-mail: chad.stover@btlaw.com

Mark C. Nelson (admitted *pro hac vice*)
David M. Lisch (admitted *pro hac vice*)
Benjamin T. Pendroff (admitted *pro hac vice*)
2121 N. Pearl Street, Suite 700
Dallas, TX 75201
Tel: (214) 258-4140
E-mail: mark.nelson@btlaw.com
E-mail: david.lisch@btlaw.com
E-mail: bpendroff@btlaw.com

Adam M. Kaufmann (admitted *pro hac vice*)
Darrick Hooker (admitted *pro hac vice*)
Dana Amato Sarros (admitted *pro hac vice*)
One North Wacker Drive, Suite 4400
Chicago, IL 60606
Tel: (312) 214-8319
Email: adam.kaufmann@btlaw.com
Email: darrick.hooker@btlaw.com
Email: dana.sarros@btlaw.com

*Attorneys for Defendants Lancium LLC, Michael T.
McNamara, and Raymond E. Cline Jr.*